

## INVESTIGATIONS

### OVERVIEW

This section is designed to provide guidance and to outline procedures for conducting on-site investigations of consumer complaints involving FDIC-supervised institutions. These guidelines and procedures generally do not apply to routine consumer complaints that can be adequately addressed by Regional Office staff through written and telephonic communication with an institution. Rather, these procedures are applicable to in-depth investigations of complaints, involving interviews with the complainants and institution employees and a review of records maintained by the institution.

*NOTE: For more information about DCA guidelines and procedures concerning the consumer complaint process, refer to the DCA Complaint and Inquiry Manual.*

### Investigation Objective(s)

The objective for conducting an on-site investigation is to:

- € Determine whether the institution is, or is not, conducting unfair or deceptive banking practices, or violating federal regulations or statutes relevant to the consumer complaint

### In This Section

TOPIC	SEE PAGE:
CONSUMER COMPLAINT PROCESS	C-2
ROLES AND RESPONSIBILITIES	C-2
POLICY	C-4
EXAMINER RESPONSIBILITIES	C-5
GENERAL AND ECOA/FHA PROCEDURES	C-6
WORKPAPER STANDARDS	C-29
EXHIBIT 1 Consumer Complaint Investigation Report	C-30
REFERENCES	C-33

## CONSUMER COMPLAINT PROCESS

Section 18(f) of the Federal Trade Commission Improvement Act of 1975 [also known as the Magnuson-Moss Warranty Act (15 U.S.C. 57a(f)(1))] directs the FDIC and the other federal banking agencies to investigate and act on complaints of unfair or deceptive bank acts or practices by institutions in each agency's jurisdiction. Presidential Executive Order 12160, dated September 26, 1979, further directs the federal banking agencies to track and analyze data on consumer complaints, and to integrate the analyses of such data into the development of policy.

Consumer complaints play an important role in the supervision of financial institution activities as well as in policy development. Consumer complaints and inquiries are used to identify emerging trends or problems in banking that may affect consumer rights and protections, and to develop new legislation and regulations to protect both consumers and financial institutions.

The principal goals of the consumer complaint process are to assure that:

- € Complaints from consumers involving FDIC-supervised institutions are thoroughly investigated and resolved on a timely basis, and any supervisory concerns identified during the investigation are appropriately and promptly addressed
- € Consumers receive prompt and thorough assistance with their complaints, consistent with the high standard of service the public expects from the FDIC
- € Changes in banking policies and practices that may adversely affect consumers are readily identified and evaluated, and appropriate action is taken by the federal banking agencies to protect consumers

## ROLES AND RESPONSIBILITIES

### Washington Office

The Washington Office is responsible for monitoring, coordinating and evaluating the effectiveness of the consumer complaint process and recommending policies and procedures designed to efficiently and effectively resolve them. Key responsibilities of the Washington Office are:

- € Assisting and advising the Regional Offices on unusual or difficult complaints
- € Establishing and maintaining a national automated system for monitoring complaints
- € Identifying and evaluating emerging trends and problems that may need to be addressed through expanded enforcement efforts, regulatory or legislative changes, or consumer education efforts

**ROLES AND RESPONSIBILITIES (cont'd)****Washington Office (cont'd)**

- € Monitoring and evaluating the complaint process at the Regional Office and developing and implementing guidelines and procedures for the management of complaints
- € Informing consumers, financial institutions, and others about the consumer protection and fair lending laws, the FDIC's compliance and enforcement responsibilities, and the FDIC's complaint resolution process
- € Coordinating the FDIC's consumer protection and fair lending responsibilities and the complaint and inquiry process, with other federal financial institution regulatory agencies

*NOTE: The Washington Office also responds to complaints that are received directly by the Washington Office and do not require direct contact with the financial institution to investigate. In most cases, however, contact with the institution is required, and the complaint is forwarded to the appropriate Regional Office for handling.*

**Regional Offices**

The Regional Offices are responsible for executing policies and procedures relating to complaints from customers of FDIC-supervised institutions. The Regional Offices are responsible for:

- € Reviewing the complaint to determine its validity and whether it falls within the FDIC and Region's jurisdiction
- € Determining if the complaint involves an allegation of discrimination in connection with a residential real estate transaction (involving either Equal Credit Opportunity Act (ECOA) or Fair Housing Act (FHA))
- € Notifying the financial institution named that a complaint has been received
- € Sending the institution a summary of the allegations or a copy of the complaint (required for FHA complaints)
- € Investigating the complaint to determine:
  - Whether the complaint involves a violation of a federal consumer protection law or regulation
  - Whether the problem represents an isolated situation or a general condition
  - Appropriate corrective action required under the circumstances

## **ROLES AND RESPONSIBILITIES (cont'd)**

### **Regional Offices (cont'd)**

- € Advising the complainant in writing of the actions taken by the FDIC to resolve the:
  - Complaint
  - Financial institution's position regarding the complaint
  - Complainant's rights under federal consumer protection and fair lending laws, where appropriate
- € Entering the complaint in DCA's complaint tracking system (CCIS)
- € Establishing a consumer complaint file containing a copy of the complaint and relevant information about the Region's investigation and findings

In most cases, the Regional Office can conduct an adequate investigation of a consumer complaint through written and telephonic communication with the institution. On occasion, however, a complaint will involve circumstances that require an on-site investigation. In such cases, the Regional Office will contact the field office to request an on-site investigation.

## **POLICY**

### **On-site Investigations**

DCA policy requires an on-site investigation to be conducted whenever a consumer alleges discrimination in connection with a residential real estate transaction (under ECOA or FHA), unless written justification for not conducting an on-site investigation has been approved by the Washington Office. DCA policy also requires the Regional Office to consider conducting an on-site investigation of other consumer complaints whenever:

- € The complaint alleges that there may be systemic violations, or a pattern or practice of noncompliance with consumer protection laws
- € Examination reports, correspondence, or other information indicate the applicable institution has a history of repeated violations of consumer protection laws
- € Evidence exists that the institution may be engaging in a prohibited practice
- € Similar consumer complaints have been received concerning the same financial institution
- € A review of the institution's policies and procedures relevant to the complaint reveal evidence of inconsistent application of such policies and procedures

**POLICY  
(cont'd)**

€ The possibility of an institution error or violation that may adversely affect other customers

**On-site  
Investigations  
(cont'd)**

€ The alleged banking practice cannot be verified readily by another means

€ The accuracy and completeness of the responses given by institution management are questionable

**EXAMINER  
RESPONSIBILITIES**

The following procedures are to be used when conducting an on-site investigation of an allegation by, or on behalf of an individual, group of individuals, or other entity that a particular act or practice of a financial institution is unfair or deceptive, or in violation of a federal regulation or statute under which the financial institution must operate.

<b>Pre-Investigation Planning Procedures</b>	
<i>NOTE: These procedures may not be applicable to every on-site investigation. These procedures should be tailored to the scope of each investigation.</i>	
1.	Determine the time frame in which the investigation must be completed.  <i>NOTE: As a general policy, when an on-site investigation is conducted in connection with a consumer complaint, the Regional Office must provide the consumer with a written response to the complaint within 90 calendar days of the date the complaint was received by the Regional Office.</i>
2.	Obtain a copy of the Consumer Complaint File from the Regional Office and review the contents to become familiar with the nature of the consumer's complaint and the financial institution's response to the complaint.
3.	Request from the Regional Office copies of Consumer Complaint Files of other consumers who made allegations of a similar nature against the subject financial institution.
4.	Review the financial institution's most recent compliance Report of Examination to determine the institution's overall compliance posture and whether deficiencies were noted in areas relevant to the complaint.

**EXAMINER  
RESPONSIBILITIES (cont'd)**

- |    |  |
|----|--|
| 5. | Review the consumer protection or fair lending laws and regulations pertinent to the consumer's complaint.                                     |
| 6. | Contact complainant and institution to inform them that an investigation will be occurring and make arrangements to interview the complainant. |

**GENERAL  
AND  
ECOA/FHA  
PROCEDURES**

The procedures outlined below are divided into two parts:

- € General procedures that apply to investigations of consumer complaints of any type
- € Specific procedures for investigations of consumer complaints alleging discrimination in connection with residential real estate transactions

Investigations of consumer complaints that do not allege discrimination in connection with residential real estate transactions are infrequent, and involve facts and circumstances that vary substantially from case to case. Therefore, the general procedures provide only broad guidance regarding the investigative approach, and allow the examiner broad latitude to develop an investigation that is tailored to the specific facts and circumstances surrounding the complaint. This approach should be developed by the examiner in conjunction with the Regional Office, and should take into account such factors as the seriousness of the potential violation, the number of similar complaints received about the institution, and the institution's prior history.

Since the large majority of on-site investigations of consumer complaints involve allegations of discrimination in connection with a residential real estate transaction, detailed procedures for this specific type of investigation are provided.

*NOTE: Although the additional ECOA and FHA Complaint procedures detail specific procedures for loan transactions, examiners may adapt these requests and procedures to other types of complaint investigations.*

**Interview the  
Complainant****Interview the Complainant**

Interview the complainant to obtain a detailed explanation of the alleged act or violation, and to clarify any questions identified during the review of the Consumer Complaint File.
---

## GENERAL AND ECOA/FHA PROCEDURES

### Interview the Complainant (cont'd)

*NOTE: If the individual filing the complaint represents a group, and that individual is not an attorney, inform him/her that in order for the FDIC to adequately address the allegations of the complaint, each individual must provide a detailed explanation of what occurred that caused them to believe they were victims of discrimination. The representative must also be informed that in order to receive any information concerning the complaint, FDIC must obtain a written statement from each individual authorizing the release of information to the representative, and that authorization must be forwarded to the Regional Office.*

#### **General Interview Procedures – Apply to All Complaint Investigations**

1. Obtain or verify the full name, address, and telephone number of the complainant.
2. Verify whether the complaint remains outstanding.
3. Obtain the complainant's race, age, marital status, sex, etc., if that information is pertinent to the complaint.
4. Verify the type of deposit or credit transaction involved in the complaint (credit card, small business loan, etc).
5. Obtain the names of all persons involved in the complaint, including the institution's personnel with which the complainant had contact.
6. Determine if the complainant had a personal interview with an institution representative, and if so, identify the person involved.
7. Obtain copies of any additional documents the complainant has, including documents received by the complainant from the financial institution or a third party (for example, consumer reporting agency), relevant to the allegation which may not have been forwarded to the FDIC and placed in the Consumer Complaint File.
8. Determine what specific remedy the complainant seeks in order to resolve the complaint.

## GENERAL AND ECOA/FHA PROCEDURES

### Interview the Complainant (cont'd)

9. Inform the complainant that:

- € The examiner's responsibility is to gather information
- € The scope of the investigation is to determine whether the financial institution has violated any fair lending or consumer protection laws, regulations, etc.
- € The complainant's rights under the Consumer Protection laws to pursue the matter in a state or district court (two year time period for both the ECOA and FHA)

*NOTE: Do not discuss the merits of the complaint or the status of the investigation with the complainant, but inform the complainant that the Regional Office will respond to them after all the facts have been obtained and the investigation is completed.*

#### Additional Steps for ECOA or Fair Housing Complaints

1. Ask the complainant for names of others who may have encountered similar problems.

2. Obtain information on the type of public assistance, if applicable, including the amount and whether the assistance is temporary or permanent.

3. If the transaction was denied based on credit, ask the complainant if a co-signer was presented.

*NOTE: It may be necessary to interview the co-signer to determine if the co-signer would have met the criteria for the credit transaction in question.*

4. Determine if a formal application was submitted to the institution.

If an application was submitted, ascertain where the application was filed, and with whom. If not, ascertain the reason(s) why.

5. Determine if an application was subsequently submitted to another institution and its disposition, as well as full details of any subsequent dealings with the institution.



**GENERAL  
AND  
ECOA/FHA  
PROCEDURES**

**Interview the  
Complainant  
(cont'd)**

- |     |  |
|-----|--|
| 6.  | Obtain details on the type, amount and terms of credit, if different from the complainant's initial request.   |
| 7.  | Determine whether the loan was approved, declined, withdrawn or offered on other terms. Obtain all details, (for example, why it was withdrawn, other terms offered) and all reasons, written or orally, given to the complainant. If the complainant tried to obtain additional information or had other contact thereafter, ascertain exactly what occurred.   |
| 8.  | Obtain copies of all correspondence and documents relating to the loan application which the complainant can provide.  |
| 9.  | Determine whether the complainant believes that the reason provided by the institution for rejecting the application was the actual reason. (If not, what does the complainant believe was the actual reason and the basis for that belief.)   |
| 10. | Obtain the following information where the institution's rejection was based on insufficient income or credit reasons: <ul style="list-style-type: none"> <li>€ Total gross income at the time of application (both spouses, if applicable)</li> <li>€ Sources of income (including child support, alimony, part-time jobs)</li> <li>€ Total amount of debts other than the proposed debt</li> <li>€ Total monthly payments on debts (including child support and alimony)</li> <li>€ Bankruptcies, delinquencies, or other adverse credit history that might have been cause for rejection</li> <li>€ Marital status of applicants, age of applicants, number of children and their ages</li> <li>€ Employment history and number of years in current employment</li> </ul> |

**GENERAL  
AND  
ECOA/FHA  
PROCEDURES**

**Interview the  
Complainant  
(cont'd)**

**For Joint Applications**

11. For joint applications where the complainant believes the rejection was based on sex, determine whether both spouses were present at the time of application, and whether both provided information to the institution.
12. Determine who completed the application and whether the institution's personnel assume that the husband was to be the "borrower" and the wife the "co-borrower".
13. Determine whether there were any differences between the institution's questions concerning the employment of the husband and of the wife, and if so, what were the differences. These questions could include:
  - € Whether either spouse had any plans to change employment
  - € Whether more information was requested from the wife than the husband in conjunction with future employment plans
  - € Whether any suggestions were made that the wife would be likely to stop working in the future
  - € Whether any questions were asked about plans to have children or the number and ages of children at the time of application
  - € Whether the couple practiced birth control or the kind of birth control practiced

If such questions were asked, during the interview with institution personnel, obtain the institution's reason(s) for requesting this information.
14. Determine if the complainants were required to give any assurances that they were not planning to have children as a prerequisite to counting the wife's income and, if so, what assurances were required of the applicant and co-applicant.
15. Ascertain whether there was any indication that the husband's income would be considered first, and that the wife's income would be considered only if his was insufficient to qualify alone. If so, obtain details from the complainant.

**GENERAL  
AND  
ECOA/FHA  
PROCEDURES**

**Interview  
Employees of the  
Financial  
Institution**

<b>Interview Employees of the Financial Institution</b>	
<b>General Procedures – Apply to All Complaint Investigations</b>	
1.	<p>Meet with the management of the financial institution to:</p> <ul style="list-style-type: none"> <li>€ Discuss the scope of the investigation, including but not limited to: <ul style="list-style-type: none"> <li>-- Files to be reviewed</li> <li>-- Employees to be interviewed</li> <li>-- Copies of any written procedures or instructions with respect to practices relevant to the complaint</li> </ul> </li> <li>€ Allow management the opportunity to provide any additional information that may be relevant to the investigation of the complaint</li> <li>€ Ascertain how the institution desires to resolve the complaint</li> </ul>
2.	<p>Interview the employees of the institution who were involved in the complaint.</p> <p>Obtain a detailed explanation of the actions taken by the financial institution with respect to the consumer's request or application for banking products or services.</p> <ul style="list-style-type: none"> <li>€ Determine whether any unwritten policies or procedures were used by financial institution personnel</li> <li>€ Ascertain the amount and level of regulatory knowledge and training of the staff involved in the act in question</li> <li>€ Clarify any issues in the financial institution's response contained in the Consumer Complaint File</li> </ul>

**GENERAL  
AND  
ECOA/FHA  
PROCEDURES  
(cont'd)**

**Review Financial  
Institution  
Records**

<b>Review Financial Institution Records</b>	
<b>General Procedures – Apply to All Complaint Investigations</b>	
1.	<p>Review the financial institution's written policies and procedures (current policies and procedures as well as those in effect at the time the event in the complaint took place) in the area of operation pertinent to the complaint.</p>

**GENERAL  
AND  
ECOA/FHA  
PROCEDURES  
(cont'd)**

**Review Financial  
Institution  
Records (cont'd)**

2. Review the specific financial institution files or documentation associated with the complaint (for example, ledgers, receipts, canceled checks, statements, adverse action notices, disclosure statements, member agreements, etc.).

3. Review additional files and documentation for similar transactions involving other consumers, if the files and documentation reviewed indicate procedural deficiencies or violations with respect to the subject complaint, to determine whether there exists a random, recurring, or system-wide event.

4. Compare the written, stated, and applied standards to determine if the financial institution makes exceptions to these standards, and how the exceptions are applied.

5. Determine whether the financial institution personnel, involved in the subject complaint interpret and apply these standards as intended by the institution's management.

**Additional Steps for ECOA or Fair Housing Complaints**

1. Obtain information from the review and analysis of each of the following categories:

- € Loan policies/procedures and appraisal criteria
- € Application procedures
- € Underwriting policies
- € Lending patterns
- € Collection procedures
- € Other sources
- € Appraisal policies and procedures
- € Contact with Real Estate Brokers
- € Consumer Groups

Detailed procedures for each category follow.

**Loan Policies and Procedures and Appraisal Criteria**

1. Obtain copies of any manuals, books, compilation of memoranda or minutes (including memos to employees) describing or containing the institution's policies pertaining to different types of loan requests.

**GENERAL  
AND  
ECOA/FHA  
PROCEDURES  
(cont'd)**

**Review Financial  
Institution  
Records (cont'd)**

These may include:

- € Underwriting criteria
- € Standards on evaluating income
- € Written instructions concerning lending policies
- € Procedures and practices
- € Directives regarding current interest rates, loan-to-value ratios, etc.

If there have been changes in the past two years, obtain copies of the previous versions. If the institution indicates that no such copies exist, determine how employees, such as branch managers and loan officers, know what information to give applicants about present policy or what standards to apply to applications. If the institution states that this information is communicated orally in meetings, determine if minutes were taken, and obtain copies.

2. Obtain copies of all forms, disclosures, and written materials presently used or in use at the time of the complainant's loan request. These may include:

- € Loan applications
- € Appraisal forms and work sheets
- € Work sheets used to compute and evaluate credit data
- € Disclosures concerning interest rates, loan-to-value ratios, points, and if there are maximum and minimum loan amounts and interest rates the person or persons who sets those limitations
- € Any written material for brokers and builders who refer applicants to the institution

3. Obtain a description of the institution's criteria used when establishing property values, such as:

- € Age of the property, and if there is a limit on the age of property that will qualify for a conventional loan (For example, is it chronological age, effective age or remaining economic life; are there any circumstances under which the age limits would not be observed; does the age of the property dictate the duration of the loan, and if so, on what scale; are there any exceptions to this? Obtain a complete description of all circumstances in which age of property affects a loan application.)
- € Style or size of property

**GENERAL  
AND  
ECOA/FHA  
PROCEDURES  
(cont'd)**

**Review Financial  
Institution  
Records (cont'd)**

- € Crime or vandalism rates in an area (How is this measured or determined?)
- € Economic demographics of an area (How is this measured or determined?)
- € Age range of other properties in the neighborhood where the property is located
- € Value range of other properties in the neighborhood where the property is located
- € Predominant racial or ethnic composition in the neighborhood where the property is located (Is this composition changing?)
- € Percentage of development in the neighborhood

4. Ascertain specific areas where the institution prefers to make loans or has made the majority of loans in the past two years.

Obtain a description of these areas including housing and population characteristics (for example, new communities rather than older ones). If there are areas, streets, communities, or neighborhoods where the institution will not make loans, obtain a description of the boundaries of such areas and determine why no loans are made there.

If exceptions to established policy have been made, determine how many, when and whether there is a high delinquency or default rate on such loans. Also determine the institution's estimate of the number of applications, per month, from such areas. If the number is low, determine why the institution believes more applications do not come from these areas.

If there are any areas, streets, communities, or neighborhoods where the institution will only make FHA or VA loans, obtain a description of the boundaries of these areas and the institution's reasons for making only FHA and VA loans.

Also determine whether the institution has ever made conventional loans in the area and, if so, how many, when and whether there was a higher delinquency or default rate on such loans. Request that the institution estimate the number of applications for conventional loans, per month, from such areas. If the number is low, determine why the institution believes it to be low.

**GENERAL  
AND  
ECOA/FHA  
PROCEDURES  
(cont'd)**

**Review Financial  
Institution  
Records (cont'd)**

5. If the collateral is located in an area the institution considers to be a high risk for lending, but in which it will make conventional loans on a high downpayment, low loan-to-value ratio basis at higher than market rates or for a shorter term, obtain a complete description of the boundaries of such areas.

Also determine why the area is considered high risk; how that risk is measured; and how terms are fixed for loans in such areas. Determine the institution's estimate of the number of applications for loans, per month from such areas. If the application number is low, determine the institution's opinion of why there are so few applications from the area.

6. Determine whether the institution has a policy against originating or processing FHA loans or VA loans and, if so, why. Ascertain whether such loans have ever been made and, if so, when and why the policy was changed. If there are any areas where the institution will not originate FHA loans, obtain complete details.

7. Determine whether at any time during the past five years the institution was "out of the market" for home mortgage loans throughout its market or in a particular area. If so, determine the dates and the reasons for this policy. If any home loans were granted during this period, ascertain who received them.

8. Determine whether the institution gives or has given any credit preference to depositors. If so, describe the preference policy.

**Relationships with Builders and Brokers**

1. Determine whether the institution has maintained any ongoing relationship with builders or brokers who refer commercial or residential real estate loan applicants to the institution. If so, obtain a description of the relationship, the name and address of each applicable broker or builder and the name of the contact person.
2. Determine the method by which the financial institution provides information on credit policies and procedures to these brokers or builders. If any material is in writing, obtain copies.

**GENERAL  
AND  
ECOA/FHA  
PROCEDURES  
(cont'd)**

**Review Financial  
Institution  
Records (cont'd)**

3. Estimate the number of commercial or residential real estate loans that are referred by:

- € Brokers
- € Builders
- € Other sources
- € "Walk-ins"

**Other Information**

1. Determine if the institution has been the subject of a discrimination complaint in lending or employment on the basis of race, age, color, religion, sex, national origin, familial status or handicap within the past two years.

If so, obtain details of such complaint, including the federal or state agency that handled the complaint, the identity of complainant and the resolution. Obtain a copy of all documents and correspondence in the institution's possession with respect to the complaint (if not readily available in the Regional Office files).

**Analysis of Application Procedures**

1. Obtain the following information with respect to loan application procedures:
  - € The location(s) where application forms are obtained, submitted, and evaluated
  - € The application and appraisal fee policy
 

Determine:

    - The fee schedule
    - When the fees are paid
    - Whether the fees are uniformly charged
    - Whether the fees are retained if the loan is declined
  - € The name of any person(s) authorized to review an individual's financial data or property characteristics to determine eligibility prior to submitting an application (pre-screening); how the procedure operates; and whether any record is kept of applications not ultimately submitted (Ascertain whether the practice occurs even though not formally authorized.)



**GENERAL  
AND  
ECOA/FHA  
PROCEDURES  
(cont'd)**

**Review Financial  
Institution  
Records (cont'd)**

- € Determine the nature of information given to prospective applicants by phone and whether any pre-qualification or pre-screening is done by phone
- € Determine the nature of information requested of an inquirer who telephones for credit information
- € Whether the property address is requested and why
- € Determine whether persons are ever told on the phone that loans are not being made in certain areas and, if so, under what circumstances this would occur
- € Determine the checks and verifications performed on information reported on the application
- € Determine when an appraisal is required; under what circumstances an appraisal would not be required; and where appraisals are maintained
- € Determine who reviews the file after all information is verified and the appraisal returned (If any information cannot be verified or is unfavorable, ascertain whether the application can be rejected at this stage and, if so, who has authority to make such a rejection and what records are kept.)
- € Determine who is authorized to approve or deny the credit applications (for example, a loan committee, loan officer, board of directors)
- € Determine record retention of denied applications
- € Determine how approved loans information is maintained
- € Determine whether applicants complete their own applications or whether it is done by the institution
- € Determine whether applicants are asked to sign a blank application so that information may be typed in later

**GENERAL  
AND  
ECOA/FHA  
PROCEDURES  
(cont'd)**

**Review Financial  
Institution  
Records (cont'd)**

**Analysis of Underwriting Policies**

1. Obtain a description of all underwriting factors which go into the institution's credit decision. These factors include:
  - € Sufficiency of income (What loan-to-value, mortgage payment-to-income or total payments-to-income ratios or formula are used and why certain ratios were adopted? Under what circumstances might these ratios be varied and a loan made even though the income does not meet the test?)
  - € Viability, stability, or reliability of income and income sources (How are these elements measured, what factors are looked for, and do they vary according to the applicant's profession or social status? Ascertain in particular whether any types or sources of income are discounted or not counted (for example, part-time income, bonuses, commissions, income from jobs held less than two years).)
  - € Total qualified income (Is the income calculated on the basis of one spouse's income or both? If one income is used, ascertain which one, why and when the other spouse's income would be included. Determine whether any preference is given to loans either based on only one income or two incomes.)
2. Obtain a description of the institution's policy with respect to:
  - € Income of working women (for example, are there any circumstances under which it might be discounted or disregarded?)
  - € Loans to unmarried women with or without children
  - € Inclusion of alimony or child support as viable income
  - € Viability of income for women in childbearing years
  - € Ability of a woman to obtain a loan in her own name or Co-signer requirements imposed on her
  - € Credit scoring devices (If used, obtain a complete description and a copy of any written guidelines.)
  - € Credit history (Ascertain any factors which would disqualify an applicant, such as bankruptcy, prior foreclosure, late payments.)
  - € Property characteristics (Determine what factors go into the determination that a property is eligible or ineligible for a loan. Ascertain whether the appraiser includes comments on the future predictable value of a property or an area.)

**GENERAL  
AND  
ECOA/FHA  
PROCEDURES  
(cont'd)**

**Review Financial  
Institution  
Records (cont'd)**

€ Loan-to-value (LTV) ratio (Ascertain the ratio standards set by the institution if the LTV ratio of the customer is considered too high. Obtain full details.)

€ Risk (If a loan is believed to contain more than normal risk, determine whether it will be rejected or whether there are circumstances under which it will be made but on terms which reflect the additional risk. Ascertain who makes that determination, and how the risk is measured objectively. In particular, what factors go into the decision (for example, how are the LTV and total payments-to-income (TPI) ratios set, what standards are used to establish the durations, how is the interest rate, set and how are "points" established?)

For a loan that is accepted and not considered to involve a greater than normal risk, ascertain how the rate, term, LTV, mortgage payments-to-income (MPI), TPI and points are determined. In particular, who sets the standards and which ones are followed? For example, with MPI, is there consistency in the application of the institution's policy? Are utility costs, taxes, insurance, etc., always included/excluded? Similarly, with TPI, are taxes, insurance, utility, and other costs always included/excluded?)

€ Compensating factors (What are they? When are they used? Were compensating factors used in an attempt to qualify the complainant? If not, why? If compensating factors were used, would the complainant have qualified for the loan?)

3. Determine if the underwriting policies changed at any time within the past two years. If so, obtain details of prior policy, when and why a change was made and how the change was communicated to employees.

4. Determine whether employees have received any training in civil rights or nondiscrimination in lending practices. If so, review the training policy and procedures, including copies of any written training material.

**GENERAL  
AND  
ECOA/FHA  
PROCEDURES  
(cont'd)**

**Review Financial  
Institution  
Records (cont'd)**

**Analysis of Lending Patterns**

1. For those institutions not subject to the HMDA, determine whether the institution can provide a list of mortgage loans by address, census tract or zip code. If possible, obtain the list of mortgages made in the past two years. (With respect to larger institutions this request may be modified to obtain a minimum of a six-month sample.)
2. Determine the institution's estimate (if more precise data is not available) of the racial and ethnic composition of its mortgage loan customers. Complete the Mortgage Lending Decision Analysis (MLDA) Worksheet.  
  
*Refer to the Standardized Workpapers Appendix for procedures for completing the MLDA.*
3. Examine a sample of accepted and rejected mortgage applications for the period of time during which the complainant's application was submitted. Review the following documents in the loan files: application, appraisal, work sheets, and any documents that list the amount of the loan made, interest rate, maturity, points, and date of approval. Complete a MLDA Worksheet.
4. Review the "neighborhood data" on the appraisal form to determine whether any racial notation or code is used. If any racial notation or code other than those required for recordkeeping purposes under Fair Housing, is observed, ascertain its purpose and use.
5. Note whether any institution worksheet indicates that the income of a working wife was discounted or not included. Compare the figures with those entered on the application and employment verification forms. Combined incomes of both spouses must be considered in TPI and MPI computations.
6. Identify any applications, including the complainant's, that were improperly rejected based on actual or articulated credit policies. The terms and conditions or approved loans should also be examined.
7. Determine the percentage, or approximate percentage or dollar volume, of home loans made in the past year which have been sold to other investors or in the secondary market.

**GENERAL  
AND  
ECOA/FHA  
PROCEDURES  
(cont'd)**

**Review Financial  
Institution  
Records (cont'd)**

Identify the buyers and determine how loans are selected to be sold (for example, are only FHA loans sold or loans in certain areas, or with certain characteristics). Determine if this is a greater or lesser amount of loans sold than in previous years and the reasons for the difference.

8. Determine the percentage, or approximate percentage or dollar volume, of home loans made in the past year which were purchased from other sources.

Identify the other sources and the general location of the loans. Determine if this is a greater or lesser amount of loans sold than in previous years and the reasons for the difference.

**Analysis of Collection Procedures**

1. Determine whether the race, ethnic origin or sex of the borrower is ever a factor in determining what collection steps will be undertaken. If so, detail the policy.

2. Determine which mortgages were foreclosed or litigated in the past two years.

3. Determine the number of foreclosed mortgages involving protected group borrowers for the past two years, and the percentage this represents of the total mortgage portfolio.

Determine the number of delinquent mortgages involving protected group borrowers in each year in the past two years and what percentage this represents of the total mortgage portfolio.

Analyze the institution's delinquencies or foreclosures from a protected group point of view to determine those factors that may have caused or contributed to the delinquency or foreclosure. Obtain all details, including copies of any written analysis.

4. Determine the institution's collection policy and procedures including:

- € Actions by the borrower that result in a delinquent status or default (for example, one month in arrears, two months in arrears, etc.)
- € Steps initiated by the institution on delinquent or defaulted loans
- € Circumstances under which foreclosure is instituted

**GENERAL  
AND  
ECOA/FHA  
PROCEDURES  
(cont'd)**

**Review Financial  
Institution  
Records (cont'd)**

- € Circumstances under which forbearance is exercised
- € Factors that would cause the foreclosure or forbearance to be accelerated or decelerated

5. Describe the factors that would cause a variation in the normal collection process (for example, does it vary on the basis of the property's location). Obtain sample copies of collection letters and an indication of when they are used. Examine a sample of collection files or cards to determine if any bear racial or ethnic notation or code.

**Other Sources of  
Information**

**Other Sources of Information**

1. Obtain information from other sources of information, as applicable:

- € Appraisers
- € Real estate brokers
- € Consumer groups
- € Other complainants

The examiner may wish to pursue additional sources of information in the investigation, depending on the nature of the complaint and Regional Office concurrence.

**Analysis of Appraisal Policies and Procedures**

*NOTE: Appraisers may be employees of the institution or independent contractors.*

2. If the institution uses independent appraisers, contact the appraisal company and interview those persons who conduct appraisals or performed appraisals for the institution at the time of the complainant's loan request.

OR,

If the appraisers are employees of the institution, interview all appraisers who were employed in that capacity at the time of the complainant's loan request.

**GENERAL  
AND  
ECOA/FHA  
PROCEDURES  
(cont'd)**

**Other Sources of  
Information  
(cont'd)**

3. Obtain the following information for appraisals conducted during the past two years:

- € Name, address, race or ethnic origin, sex, employer's name and dates of employment
- € Nature of the appraiser's training, professional designation or affiliation, and years of experience
- € Approximate number of single-family homes appraised by the individual per year (or per month or week).

*NOTE: If the appraiser works for an independent fee company, determine the approximate number performed by the company and also the name and address of every lender for which single-family home appraisals were done in the past year.*

- € A sample copy of all appraisal forms presently in use or used within the past two years for the appraisal of single-family dwellings and which forms are or were used by or for the institution
- € Whether the racial or ethnic composition of an area is ever a factor in determining fair market value, neighborhood analysis, future value or loan risk (If so, obtain details on how these factors are affected by race or nationality.)
- € Determine whether a pattern of under-appraisals related to prohibited factors exist
- € Does a gap exist between appraised value and price for minority areas more frequently than for non-minority areas?
- € The way in which the racial or ethnic composition of an area is reflected on the appraisal report, or is reported to the institution, and why it is reported
- € Whether any person associated with the institution has ever inquired about the racial composition of an area (If so, obtain details, including names, dates and reasons for inquiry.)
- € Whether the appraiser has ever had any discussions, correspondence, or instruction from his superiors or from the institution with respect to a particular appraisal or appraising in general for an area which is integrated, becoming integrated, or predominately nonwhite (If so, obtain details including what was said, by whom, when, and in what manner directives were implemented.)

**GENERAL  
AND  
ECOA/FHA  
PROCEDURES  
(cont'd)**

**Other Sources of  
Information  
(cont'd)**

€ Whether the appraiser is aware of any map or list presently used, or used within the last two years, by appraisers on behalf of the institution that demarcates geographic areas on any of the following bases:

- Racial or ethnic composition
- Income level of residents
- Changing value levels
- Age range of properties
- Value range of properties
- Loan or no loan areas
- High or low risk
- Crime rate
- Other similar category

If so, obtain details, including how the map or list is used, why it is no longer used (if that is the case), who maintains it, and how areas are designated to one or more categories. Determine where the map or list is kept and a description of each area demarcated thereon.

€ If possible, obtain a copy of the list or map and all pertinent documents related to its use:

- The appraiser's operational definition of economic obsolescence and how this is measured

*NOTE: Standard appraisal texts in the past have cited the presence of "inharmonious racial groups" as a case of economic obsolescence, which leads to depreciation on the basis of race.*

- Whether, in the appraiser's professional judgment, economic obsolescence can be caused by infiltration of inharmonious groups

Determine what is meant by "inharmonious groups" and whether this includes racial groups. Determine how the economic obsolescence from such infiltration is measured or measurable. Determine whether the appraiser applies the concept of "infiltration," and if so, how.



**GENERAL  
AND  
ECOA/FHA  
PROCEDURES  
(cont'd)**

**Other Sources of  
Information  
(cont'd)**

- Determine what the appraiser construes "homogeneous" area to mean and whether this definition includes racial or ethnic homogeneity. Determine what specific areas the appraiser believes have declined in value due to the presence of non-homogeneous people. If, in the appraiser's judgment, the presence of minority persons is an "adverse influence" in a neighborhood, obtain all details. If the appraiser ever includes comments about the values or future of a neighborhood in an appraisal report to the institution, determine why this is done.

**Contact with Real Estate Brokers**

If a large number of applications for loans are forwarded to institutions by real estate brokers, local brokers are often aware of the loan policies of lenders and whether these policies are nondiscriminatory. For "racial redlining" complaints, the brokers most likely to have relevant information are those who deal in racially integrated or predominantly minority areas.

To conduct this part of the investigation, the examiner will need to identify those brokers who deal with the institution. If a listing is not provided by the institution, the examiner should refer to telephone or broker association directories for the names of several brokers in the general vicinity of the institution's main office and its branches. Select a sample of brokers to be interviewed.

4. Obtain the following information from the owners of the firms or the registered brokers selected to be interviewed:

*NOTE: The examiner may state the purpose of the interview to the individual. The broker should also be informed that neither he/she nor his/her business practices are the subject of the investigation.*

- € Name, address, sex, race and name of the firm
- € Whether the broker has ever referred prospective loan applicants to the institution. If so, approximately how many per month? If not, determine the reasons why and what institution the broker does use and why
- € The names and addresses of other real estate companies that may send, or have sent, prospective applicants to the institution
- € The broker's understanding of the institution's loan policies with respect to minorities, including women, and integrated areas

**GENERAL  
AND  
ECOA/FHA  
PROCEDURES  
(cont'd)**

**Other Sources of  
Information  
(cont'd)**

- € The basis for the broker's understanding of the institution's policies, including any aspects of the institution's reputation or any incident or experience that the broker may have had with the institution, even if the incident took place some time ago
- € Whether any employee of the institution or other person associated with the institution has ever instructed the broker (or any other broker or agent) not to refer certain types of applicants or applicants from a particular area. If so, obtain all details
- € The name, race, sex and last known address and place of employment of every person known to the broker to have been rejected as a loan applicant by the institution in the past two years, and the reason, if known – for each person discouraged by the institution from applying for or pursuing an application for a mortgage

**Contact with Consumer and Community Groups**

From time to time various community organizations conduct campaigns designed to combat "redlining" or other forms of discrimination. These groups are often aware of persons who applied for loans at various institutions. In some cases, a study may have been done or a complaint filed, by the group, with a local, state or federal agency. If such groups exist in the area where the institution is located they should be contacted.

5. Obtain the following information from each group:

- € Name, address, race, and sex of the person interviewed, and the name and phone number of the consumer/community group
- € Information the groups may have concerning the institution's lending policy, including:
  - Where loans will not be made and why
  - Where only FHA or VA loans will be made
  - Whether FHA or VA loans will not be made in certain areas
  - Where loans will be made at higher rates, shorter duration
  - Areas considered by the institution as high risk areas

6. Determine the basis of the group's information:

- € Information concerning other financial institutions believed to be engaging in racial redlining

**GENERAL  
AND  
ECOA/FHA  
PROCEDURES  
(cont'd)**

**Other Sources of  
Information  
(cont'd)**

- € Name, last known address, race, and sex of any person known to the group to have been rejected for a loan by the institution within the past two years. If not immediately available, determine whether the organization can provide the names of such individuals to the Regional Office
- € Copies of any studies, analyses, position papers or other documents produced by the group pertaining to allegations of discrimination in lending
- € Name and address of any other person or group that the organization believes may have additional information in this regard

**Exit Interview  
with Financial  
Institution  
Management**

**Conduct Exit Interview**

1. Conduct an exit interview with the President or another member of senior management of the institution to discuss the findings regarding violations or procedural deficiencies.

*Refer to the Closing Management & Board Meetings Policy section of this manual for guidance.*

*NOTE: Recommendations that the financial institution take corrective action on the complaint should not be made at the exit interview, unless instructed to do so by the Regional Office.*

**Preparation of  
Investigative  
Report**

At the completion of the on-site investigation, the examiner will prepare an investigative report (see Exhibit 1 at the end of this section). The investigative report will present the information and facts in a clear, objective manner.

**Prepare the Investigative Report**

1. The report, in memorandum form, should:
  - € Be dated and written in the third person
  - € Summarize the facts in chronological order
  - € Indicate all parties involved in the complaint, including the identification of persons interviewed during the investigation process

**GENERAL  
AND  
ECOA/FHA  
PROCEDURES  
(cont'd)**

**Preparation of  
Investigative  
Report (cont'd)**

- € Cite applicable federal regulations or statutes which are relevant to the complainant's allegations
- € Detail information or material obtained from the Regional Office (for example, Consumer Complaint File), complainant, and financial institution (for example, policy statements, procedures, contracts) used to determine the validity of the allegations
- € Detail the precise allegations of the complainant, and the resolution desired by the complainant
- € Detail the findings of the investigation, including all violations noted relevant to the complaint, and indicate whether infractions are the result of errors or mistakes, as distinguished from deliberate violations
- € Detail the financial institution management's response to the complaint together with any documentation or other evidence provided by management at this time in support of their position, and how the financial institution desires to resolve the complaint
- € Summarize the above facts, with all allegations and defenses reported and labeled as such, and develop conclusions based on the evidence as to what took place
- € Make a recommendation on whether the institution appears to have acted improperly or unlawfully, and how the complaint could or should be resolved

2. If a violation is found, the examiner should further:

- € Comment in the summary section on whether the complaint represents an isolated case or a pattern or practice
- € Give a brief summary about the financial institution's most recent compliance examination to indicate whether the institution has ever been cited for any violations and corrective actions similar to this complaint
- € Provide a breakdown of the hours expended on the investigation, including travel performed during working hours

3. Deliver the investigative report and workpapers to the Regional Office for review and a final decision.

**GENERAL  
AND  
ECOA/FHA  
PROCEDURES  
(cont'd)****Action By the  
Regional Office****Regional Office Procedures**

1. Prepare and send a letter to the financial institution indicating: findings of the on-site investigation and the required corrective action, if applicable, which the financial institution should complete within 30 days of receipt of the letter.

2. Prepare and send a letter to the complainant explaining the results of the investigation, including the corrective action, if any, the financial institution will undertake, as well as any alternatives (for example, civil suit) that may be available to the complainant.

3. File necessary records.

A copy of the investigation report and relevant correspondence should be maintained in the Field Office. Copies of correspondence and workpapers should also be maintained in the Regional Office.

**WORKPAPER  
STANDARDS**

The examiner will complete and submit workpapers in support of the investigative report in accordance with the general Workpaper Standards as appropriate.

---

**CONSUMER COMPLAINT INVESTIGATION REPORT**

---

---

Complainant: **Name and address of complainant**

---

Respondent: **Name and address of financial institution**

---

Date Investigation Started:

Date Investigation Completed:

Total Hours:    Investigation -  
                     Report Writing -  
                     Travel -

---

Issue/Problem/Allegation:

**State the basis and the allegations of the complaint. Cite the federal statutes and regulations which are the appropriate criteria relevant to the complainant's allegations.**

---

Bank Product/Service:

**Give a description of the financial institution's product or service which is the subject of the complaint. For Fair Housing complaints, give a description of the dwelling involved in the complaint.**

Contact with Complainant:

**In chronological order, give a detailed summary of all contacts with the complainant.**

---

**Contact with Respondent:**

**In chronological order, give a detailed summary of all contacts with the respondent.**

---

**Research/Evidence:**

**Summarize the findings of the investigation, including all violations relevant to the complaint, and indicate whether infractions are the result of errors or mistakes, as distinguished from deliberate violations. This section should also include a review of the institution's most recent Compliance Exam to indicate whether there is a history of similar violations. For Fair Housing complaints, this section should also include a review of the institution's HMDA data and an indication whether there is a history of fair lending violations.**

---

**Summary:**

**Summarize the contacts with the complainant and the respondent, files and other documents reviewed, with all allegations and defenses reported and labeled. The examiner's observations may also be included in this section, including whether the institution appears to have acted improperly or unlawfully, based upon the evidence, and whether the complaint represents an isolated case or a pattern or practice.**

## Meeting with Management:

Description of the exit interview with financial institution officials, including the institution's responses to the complaint, and how the financial institution desires to resolve the complaint.

---

Subsequent Events:

Detail events relevant to the complaint that occurred after or as a result of the on-site investigation.

---

Recommendation:

The examiner's recommendation on how the complaint could or should be resolved.





**FDIC LAW,  
REGULATIONS  
, & RELATED  
ACTS**

**Applicable Rules**

Equal Credit Opportunity Act, Volume 2, Page 6610

Fair Housing Regulations, Volume 3, Page 9633

Part 338 – Fair Housing, Volume 1, Page 2647

Regulation B – Equal Credit Opportunity, Volume 2, Page 7209

---

**Advisory  
Opinions**

None

---

**Statements of  
Policy**

Policy Statement on Discrimination in Lending, Volume 2, page 5397

---

**DCA  
MEMORANDA**

Closing Management and Board Meetings Policy, Transmittal No. DCA-96-009, dated 1/31/96

General Workpaper Standards and Standardized Workpapers, Transmittal #DCA-96-003, dated 1/19/96

Pre-Examination Planning (PEP) Procedures, Transmittal No. DCA-96-013, dated 1/31/96

---

**FINANCIAL  
INSTITUTION  
LETTERS (FIL)**

Equal Credit Opportunity: Appraisals and Enforcement, Letter #12-94, dated 2/28/94

---